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1947

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File No. B. Greater Bombay

Legal **DEPARTMENT**

B **BRANCH**

Subject:— L.A. Bill No. ~~XLIX~~ of 1947.

A Bill to repeal and re-enact the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945

Bom. Act No. LII of 1947

P.27/E

File No. B. Greater Bombay/47

Std. Sectt. Slip 24 B e.

590-B.

Legal Department File No.B. Greater Bombay/1947.

Sr. No.	R.I./ O.No.	Subject.	Pages.
		A Bill to repeal and re-enact the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945.	
1.		Progress Sheet. ...	1-2. (not copied)
2.	9102 7-12-46	Mention of the "Bombay Suburban District" --- Draft Bill --- ...	3-6 (pp.5&6 not copied.)
3.	356-L 30-7-46	Draft Bill to amend section 6. ...	7-10 (pp.9-10 not copied.)
4.	2710 10-2-46	Enactments made during sec.93 Regime --- Re-enactment of --- ...	11-12.
5.	7307 20-10-46	Section 6 --- Clarification of --- ...	13-14
6.	2111 6-3-47	Suggestion to postpone the enactment for some period --- ...	15-16
7.	9385 14-8-47	Draft Bill ---	17-26 (pp.23-26 not copied)
8.	9827 25-8-47	Asking that Department to furnish the draft early ---	27-29
9.	11101 22-11-47	Seeking Governor's Assent --- ...	29-30
10.	10451 3-12-47	The Bill reserved for G.G's consideration --- ...	31-32
11.	10670 30-12-47	Intimating date of G.G's assent ...	33-34

P.T.O.

12.	25 8-1-48	Sending Authenticated copy -	...	35-36
13.	14-I 13-2-47	Publishing the Bill.	...	37-40
14.	13564 31-12-47	Publishing the Bill as an Act	...	41-44
15.	---	Debates ..	...	45-49 (not copied).

2315

MRB.
17/5

Office of the R.L.A.

The draft of section 3 of the Bombay Village Police Act, 1867, (adapted in its application to the villages specified in Part II of Schedule A to the Greater Bombay Act) which was furnished to the Home Department with the R.L.A's No.1033, dated the 5th February 1945 contained the words "the Collector of the Bombay Suburban District". The Home Department however changed the words to "the Collector of Bombay" at the time of enactment on the assumption that there would not be any Bombay Suburban District after the introduction of the Greater Bombay Scheme. Since the Bombay Suburban District is still retained so far as concerns Part II of Schedule A of the Act, legislation is necessary for suitably amending the said section 3 as enacted.

Sd. P.N.Moos
6/12/45
Remembrancer of Legal Affairs.

U.R.to H.D.,No.9152, dated the 7th December 1945.

HMP.
17/5/56.

Office of the H.L.A.

Section 6 of the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, was intended to provide for two k classes of proceedings -

(1) proceedings pending in any court in Greater Bombay; and

(2) proceedings in respect of areas in Greater Bombay pending before any public officer.

The section as worded at present does not bring out the intention clearly and it is necessary to amend the section as early as possible so as to leave no doubt as regards its intention. The draft Bill together with Statement of Objects and Reasons for the purpose is sent to the Home Department for taking necessary action.

The Bill does not require any sanction or recommendation under the Government of India Act, 1935. It does not affect any special responsibility of the Governor under section 52(1) of the said Act. Since the proceeding before any public officer might be under any existing Indian Law relating to a matter in the Concurrent Legislative List the provisions of the Bill might prove repugnant to such law. It would be accordingly be desirable to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

Sd. P. M. Moos
28/7/56
Remembrancer of Legal Affairs.

M.R. to H.D., No.356-L, dated the 30th July 1946.

MRP.
17/5/56.

GOVERNMENT OF BOMBAY.
Legal Department,
Circular No.2718.
Bombay Castle, 10th April 1946.

C I R C U L A R.

With regard to Governor's Acts passed during the old section 93 regime, sub-section (4) of section 93 of the Government of India Act, 1935, provides that every such Act shall, subject to the terms thereof, continue to have effect until two years have elapsed from the date on which the Proclamation ceases to have effect, unless it sooner repealed or re-enacted by Act of the Legislature. It will thus appear that if it is desired to repeal any of these Acts earlier than two years legislation will be necessary. Similarly, if it is intended to re-enact any such Act, with or without modifications, legislation will be necessary. It will thus be seen that if any of these Acts is to be allowed to continue to have effect for a period of two years from the date of the revocation of the Proclamation, then nothing need be done.

All departments of the Secretariat except the Separate Department are therefore requested to examine each of the Acts passed during the period, viz. 4th November 1939, to 3rd April 1946 and decide what action, if any, is to be taken in respect of each such Act and to consider the necessary legislation accordingly, obtain orders of Government thereon, and intimate the result to this Department.

By order of the Governor of Bombay,

P.H.MODS,
Secretary to Government.

To
All Departments of the Secretariat
(except the Separate Department).

MRP.
17/5/56.

13

Legal Department.

The note at page 7 ante which the Secretary, Home Department proposes to be circulated to H.Ms. may be revised as follows:-

"As section 6 of the Greater Bombay Laws Act and the Bombay High Court (Declaration of Limits) Act, 1945, stands at present, it is not clear whether it applies to proceedings pending in any court in Greater Bombay at the time of the introduction of the Greater Bombay Scheme but not pertaining to the Greater Bombay area. The amendment makes it clear that the section applies to ~~xxx~~ all proceedings pending in any court in Greater Bombay whether or not they are in respect of any of the areas comprised in Greater Bombay."

Sd. P.N.Moos
26/10/46
Secretary to Government.

U.R.to H.D.,No.7337, dated the 29th October 1946.

HMP.
17/5/56.

15

Office of the R.L.A.

The Greater Bombay Act, 1945 (Bom.XVII of 1945), contains a number of amendments both of the District Police and the City Police Acts in Schedule B thereto. Both these Acts are proposed to be considerably modified by Omnibus Police Bills and by the Bombay Public Security Measures Bill. As it is, there is likely to be some confusion in the several amendments to these Acts proposed by the several Bills and the form of the amendments to these Acts to be embodied in Schedule B of the Greater Bombay Act will eventually depend upon the exact form these two Acts take after all these amendments have been carried out. It will therefore be worth while to postpone re-enacting the Greater Bombay Act, until after all these Bills amending the Police Acts have been enacted and the exact form of the two Police Acts is definitely known after incorporating therein the amendments effected by these amending Acts. There is also no urgency of enacting these measures just at present. The Act must be re-enacted before 3rd April 1948. There is therefore plenty of time to re-enact this Act eventually in the next autumn session, and I therefore suggest that this Bill may be postponed to the next session and the drafting thereof undertaken after all the Acts amending the two Police Acts are finally enacted into law during the current session.

Sd. D. V. Vyas
Remembrancer of Legal Affairs.

U.R.to H.D.,No.2111, dated the 4th March 1947.

HRP.
17/3/56.

17

Office of the H.L.A.

The requisite draft Bill is sent herewith.

2. The Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, by section 9 and Schedule E has inter alia amended the Bombay District and City of Bombay Police Acts. Both these Acts have subsequently been amended by the Bombay District Police (Amendment) Act, 1946 (Bom.XVI of 1946) and the City of Bombay Police (Amendment) Act, 1946 (XV of 1946). They are also proposed to be considerably amended by the two Omnibus Police Bills final drafts of which have already been furnished to H.D. and which will come up in the next session. The best method to adjust the amendments made in the two Police Acts by the Greater Bombay Act with the amendments made therein by the Bombay District Police (Amendment) Act, 1946 and the City of Bombay Police (Amendment) Act, 1946, and those proposed to be made by the two Omnibus Police Bills is to be repeal and re-enact the whole Act (Bombay Act XVII of 1945) with the exception of section 9 and Schedule E. Section of the Greater Bombay Laws Act made numerous amendments in several enactments specified in Schedule E. Under section 7(a) of the Bombay General Clauses Act, 1904, repeal of any enactment does not revive anything not in force or existing at the time at which the repeal takes effct. Since the amendments have already been made in the Acts specified in Schedule E by section 9 of the Greater Bombay Laws Act, the repeal of that section together with Schedule E will not revive the provisions of the Acts mentioned in Schedule E minus the amendments made therein by the Greater Bombay Laws Act, since those Acts without the amendments were not in force at the time at which the repeal takes place. At the date of the repeal the Acts mentioned in Schedule E stood as amended by that Schedule. But as observed by the Advocate General in his opinion No.4 dated the 25th January 1947

quoting

quoting "Craies on Statutes" page 357 the presumption is that a temporary act repeals temporarily. Similarly it might be argued that a temporary amending act amends temporarily. As in matters of construction there are always differences opinion it is safer expressly to provide that the repeal of section 9 and Schedule E does not affect the continuance of any amendments made by the said section 9 and Schedule E. Clause 2 of the Bill provides accordingly.

3. Proposed amendment to section 6.- I think there is much force in the comment of H.P.M. What is wanted is that the reference in the expression "all other proceedings of whatever nature pending before any public officer" to a public officer should not be restricted to a public officer in or in respect of any area comprised in Greater Bombay. We want to provide that all other proceedings in any area in Greater Bombay or in respect of any such area in Greater Bombay pending before any public officer, shall be disposed of in the manner laid down in that section. I agree therefore that even transposition of the words "in, or in respect of, any of the areas comprised in Greater Bombay pending before any public officer" does not make for clarity. I would therefore put the qualifications about area comprised in Greater Bombay at the end of the whole thing, namely, after the parenthesis ending with the words "or an application for revision lies or will lie from a decision made or to be made)" I would delete the words "in or in respect of the areas comprised in Greater Bombay" and after the parenthesis insert "if such other proceedings are pending in any of the areas comprised in Greater Bombay or are ending in respect of any such areas". The requisite provision has accordingly been made in the Schedule to the revised draft Bill.

4. The subject-matter of the Bill falls principally under entries 1, 2 and 3 in List II and entries 3, 4 and 18 in List III in the Seventh Schedule to the Government of

India Act, 1935, and also generally under all other entries in both the Lists to which the subject-matter of the Acts affected by the Bill relates. As the provisions of the Bill are repugnant to the provisions of the existing Indian Laws relating to matters in the Concurrent Legislative List, it will be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

5. The Bill requires the previous sanction of the Governor under section 108(2)(ii) of the Constitution Act. It also requires his recommendation under section 82(3) of the said Act, since the re-enactment of the Greater Bombay Act will involve expenditure from the revenues of the Province in maintaining the additional police force in the added part of Greater Bombay as well as for the appointment of additional Presidency Magistrates, etc.

6. The Bill does not affect any of the special responsibilities of the Governor under section 52(1) of the Constitution Act.

7. The requisite Statement of Objects and Reasons is also appended.

Sd. D.V.Vyas

Remembrancer of Legal Affairs.

Ltr.to H.D.,No.8355, dated the 14th August 1947.

IRP.
17/8/36.

27

IMMEDIATE. Legal Department.

The final draft of the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) (Repeal and Re-enactment) Bill, 1947, was furnished to the Home Department under this Department u.r.No.8355, dated the 14th August 1947. As the Bill is to be taken up in the next Session of the Bombay Legislature, the Home Department is requested to send the said Bill, after taking the necessary steps, to the Legal Department before Thursday the 28th August 1947, in order to enable this Department to publish the same in good time before the next Session of the Bombay Legislative Assembly, which is summoned to meet on the 10th September 1947.

Sd. B.D.Pandit
23/8
For Secretary to Government.

U.R.to H.D.,No.8697, dated the 23rd August 1947.

MRP.
17/5/56.

No.11181.

Legal Department,

Bombay Castle, 22nd November 1947.

From

P. H. Lad, Esquire, I.C.S.,
Secretary to the Government of Bombay.

To

The Private Secretary to the Governor of Bombay.

Subject:- A Bill to repeal and re-enact the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor, the authentic copy of the Bill to repeal and re-enact the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 4th and 17th October 1947, respectively.

2. The subject-matter of the Bill falls principally under entries 1, 2 and 3 in List II and entries 2, 4 and 15 in List III in the Seventh Schedule to the Government of India Act, 1935, and also generally under all other entries in both the Lists to which the subjec-matter of the Acts affected by the Bill relates. As the provisions of the Bill are repugnant to the provisions of certain existing laws relating to matters in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

3. I also forward herewith six copies of each of the

Items ..

(1) Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.

(2) A Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.

(3) Bill as read for the third time and passed by the Bombay Legislative Council.

(4) Extracts from the proceedings of the Bombay Legislative Assembly dated the 4th October 1947 and of the Bombay Legislative Council dated the 17th October 1947.

items Nos.1 to 3 and two copies of item No.4 of the papers noted in the margin. The Bill was not referred to a Select Committee.

I have the honour to be,

Sir,

Your most obedient servant,

Sd. P.H.Lad
21/11
Secretary to Government.

Through

The Secretary to the Government of Bombay,

Home Department.

IRP.
18/5/56.

No.P.S.G.-5548.

Office of the Private Secretary to the Governor,
Government House,
Bombay, 30th November 1947.

From

L.E.Bagshawe, Esquire, I.C.S.,
Private Secretary to the Governor of Bombay.

To

The Secretary to the Legislature Department,
Council Hall, Bombay.

Subject:- The Greater Bombay Laws and the Bombay High Council (Declaration of Limits) (Repeal and Re-enactment) Bill, 1947.

Sir,

With reference to the above-mentioned Bill which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council on the 4th and 17th October 1947, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the ~~X~~ President, that as the provisions of the Bill are repugnant to the provisions of certain existing laws relating to matters in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of His Excellency the Governor-General with reference to section 107(2) of the Government of India Act, 1935. His Excellency the Governor is accordingly pleased, under section 75 of the Government of India Act, 1935, to declare that he reserves the Bill for the consideration of His Excellency the Governor-General.

Your obedient servant,

L.E.Bagshawe

Private Secretary to the Governor of Bombay.

No.P.S.G.-5549.

Office of the Private Secretary to the Governor,
Government House,
Bombay, 30th November 1947.

Copy forwarded

Copy forwarded with compliments for information to-

(1) The Secretary to Government, Legal Department, with reference to his letter No.11181, dated the 22nd November 1947.

(2) The Secretary to Government, Home Department, with reference to his endorsement No.625/5-B, dated the 25th November 1947.

By order of the Governor of Bombay,

Ed. L.D.Bagshawe,
Private Secretary to the Governor of Bombay.

HRP.
18/5/50.

33

No.PSG.5935.

Government House,

Bombay, 29th December 1947.

From

L.B.Bagshawe, Esquire, ICS.,

Private Secretary to the Governor of Bombay.

To

The Secretary to Government,

Legal Department, Bombay.

Subject:- The Greater Bombay Laws and the Bombay High Court (Declaration of Limits) (Repeal and Re-enactment) Bill, 1947.

Sir,

With reference to the correspondence resting with my endorsement No.PSG.5349, dated the 30th November 1947, I am directed to inform you that intimation has been received from the Secretary to the Government of India, Ministry of Home Affairs, that His Excellency the Governor-General has assented to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) (Repeal and Reenactment) Bill, 1947, on the 24th December 1947.

Your most obedient servant,

Sd. Bagshawe

for Private Secretary to the Governor of Bombay.

HMP.
18/3/58.

35

No.PSO.6036.

Government House,

Bombay 2nd January 1948.

From

L.S.Bagshawe, Esquire, I.C.S.

Private Secretary to the Governor of Bombay.

To

The Secretary to Government,

Legal Department.

Subject:- The Greater Bombay Laws and the Bombay High Court (Declaration of Limits)~~of~~ (Repeal and Re-enactment) Bill, 1947.

Sir,

With reference to the corres ondence resting with this Office letter No.PSO.5935, dated 20th December 1947, I am directed to forward herewith the authentic copy of the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) (Repeal and Re-enactment) Bill, 1947, with His Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Sd. ~~Names~~

for Private Secretary to the Governor of Bombay.

HRP.

19/5/56.

Bills.

A Bill to repeal and re-enact the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945.

GOVERNMENT OF BOMBAY.
Legal Department,

Resolution No.14-L.
Council Hall, Poona, 13th September 1947.

RESOLUTION:- The Bill sent with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 14th September 1947, as Bill No.XLIV of 1947.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette, on the 19th September 1947.

3. The dates of the various publications should be reported to the Bombay Legislature Department.

By order of the Governor of Bombay,

Sd. S.B.Palekar,
Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the Bill and S.O.R. and with a request that 230 Gazette copies of the Bill and the S.O.R. may be forwarded to the Bombay Legislature Department for distribution to the Members of the Bombay Legislative Assembly and 45 copies for the use of the Legal Department and 20 copies for the use of the Home Department),

The Home Department,
The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of Publicity, Bombay,
} with a copy of the Bill and S.O.R.

with five extra copies of the Bill.

HRP.
13/9/56.

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules:—

L. A. BILL No. XLIV OF 1947.

A Bill to repeal and re-enact the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, it is expedient to repeal and re-enact the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945; It is hereby enacted as follows:—

26 Geo. 5, Ch. 2.

Bom. XVII of 1945.

1. This Act may be called the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) (Repeal and Re-enactment) Act, 1947. Short title.

2. The Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, is hereby repealed and the provisions of the said Act except section 9 and Schedule E are hereby re-enacted subject to the amendment specified in column 2 of the Schedule hereto annexed: Repeal and re-enactment of Bom. XVII of 1945.

Bom. XVII of 1945.

Provided that the repeal of section 9 of, and Schedule E to, the said Act shall not affect the continuance of any amendments made by the said section 9 and Schedule E and in operation at the time of such repeal.

SCHEDULE.

Section or Schedule.	Amendment.
1	2
Section 6 ...	1. The words "in or in respect of any of the areas comprised in Greater Bombay" shall be deleted; and
	2. After the brackets and words "(including proceedings where an appeal or an application for revision lies or will lie from a decision made or to be made)" the following shall be inserted, namely :— "if such other proceedings are pending in any of the areas comprised in Greater Bombay or are pending in respect of any such areas".
Schedule C ...	The figures, letters and words "1939 XXXV The Defence of India Act, 1939" shall be deleted.

STATEMENT OF OBJECTS AND REASONS.

Under sub-section (4) of section 93 of the Government of India Act, 1935, any law made by the Governor during the section 93 regime continues to have effect until two years have elapsed from the date on which the Proclamation ceases to have effect unless sooner repealed or re-enacted by Act of the Provincial Legislature. It is considered desirable to put the provisions of the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, made during the section 93 regime, on the statute book as a permanent measure. The Bill is intended to achieve this object.

Dated 13th September 1947 : (Signed) MORARJI DESAI.

By order of the Governor of Bombay,

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

Poona, dated the 13th September 1947.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Acts.

Publication of the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) (Repeal and Re-enactment) Act, 1947.

GOVERNMENT OF BOMBAY.
Legal Department.

Resolution No.13564.

Bombay Castle, 31st December 1947.

Letter to the Secretary to the Governor, No.11131, dated the 22nd November 1947.

Letter from the Secretary to the Governor, No.PSG.5935, dated the 29th December 1947:-

"With reference to the correspondence resting with my endorsement No.PSG.5549, dated the 30th November 1947, I am directed to inform you that intimation has been received from the Secretary to the Government of India, Ministry of Home Affairs, that His Excellency the Governor-General has assented to the Greater Bomb Laws and the Bombay High Court (Declaration of Limits (Repeal and Re-enactment) Bill, 1947, on the 24th December 1947."

RESOLUTION.- The law should be published as Bombay Act No.LII of 1947, in the Bombay Government Gazette dated the 31st December 1947.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home Department.

By order of the Governor of Bombay,

Sd. S.S.Palekar,

Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department),

The Home Department,
* The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of Publicity, Bombay,
The Enquiry Officer for the Secretariat, Bombay,

} With a copy of the Act.

*With five extra copies of the Act.

IRP.
13/8/50.

43 — 1947

BOMBAY ACT NO. LII OF 1947.

~~L. A. BILL No. XLIV OF 1947.~~

A Bill to repeal and re-enact the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945.

(As read for the third time and passed by the Legislative Assembly on the 4th October 1947.)

(As read for the third time and passed by the Legislative Council on the 17th October 1947.)

26 Geo. 5, Ch. 2. Bom. XVII of 1945.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, it is expedient to repeal and re-enact the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) (Repeal and Re-enactment) Act, 1947.

Repeal and re-enactment of Bom. XVII of 1945.

2. The Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, is hereby repealed and the provisions of the said Act except section 9 and Schedule E are hereby re-enacted subject to the amendment specified in column 2 of the Schedule hereto annexed:

Bom. XVII of 1945.

Provided that the repeal of section 9 of, and Schedule E to, the said Act shall not affect the continuance of any amendments made by the said section 9 and Schedule E and in operation at the time of such repeal.

SCHEDULE.

Section or Schedule.	Amendment.
1	2
Section 6 ...	1. The words "in or in respect of any of the areas comprised in Greater Bombay" shall be deleted; and
	2. After the brackets and words "(including proceedings where an appeal or an application for revision lies or will lie from a decision made or to be made)" the following shall be inserted, namely :— "if such other proceedings are pending in any of the areas comprised in Greater Bombay or are pending in respect of any such areas".
Schedule C ...	The figures, letters and words "1939 XXXV The Defence of India Act, 1939" shall be deleted.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XLIV OF 1947]

(As read for the third time and passed by the Legislative Assembly on the 4th October 1947.)

(As read for the third time and passed by the Legislative Council on the 17th October 1947.)

A Bill to repeal and re-enact the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945.

[Mr. MORARJI DESAI, M.L.A.]

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L.A. BILL No. XLV OF 1947.

~~Bombay Act No. LII of 1947.~~

~~L. A. BILL No. XLV OF 1947.~~

A Bill to amend the Bombay Land Revenue Code, 1879.

(As read for the third time and passed by the Legislative Assembly on the 4th October 1947.)

WHEREAS it is expedient to amend the Bombay Land Revenue Code, 1879, for the purpose hereinafter appearing; Bom. V of 1879.

It is hereby enacted as follows :—

1. This Act may be called the Bombay Land Revenue Code (Amendment) Act, 1947. Short title.

2. For section 216 of the Bombay Land Revenue Code, 1879, the following shall be substituted, namely :— Bom. V of 1879. Substitution of new section 216 for section 216 of Bom. V of 1879.

"216. (*1*) The provisions of Chapters VIII, VIII-A, IX and X shall be applicable to all alienated villages and alienated shares of villages subject to the following modifications :— Chapters VIII to X to apply to alienated villages.

(*i*) subject to the provisions of any covenant or agreement entered into by the Provincial Government with the holder or holders of any such village or share the costs of any survey directed under section 95 or a fresh survey directed under section 106 and of any settlement carried out under the said Chapters in any such village or share shall be payable by the holder or holders in proportion in their share in the rent or revenue of the village or share;

(*ii*) if the Provincial Government so directs such costs shall also be payable by any class of persons who, in the opinion of the Provincial Government, have any interest in any land in such village or share and in such proportion as the Provincial Government may direct;

(*iii*) on the introduction of a settlement under Chapter VIII or VIII-A in any such village or share, the holder or holders of such village or share shall, in proportion to his share in the rent or revenue of the village or share, be liable to pay—

(*a*) the salaries of the village officers appointed for the village or the share including the commutation allowance payable in respect of a commuted kulkarni watan in the village, if any,

(*b*) the costs of the levy of a cess under section 93 of the Bombay Local Boards Act, 1923;

Bom. VI of 1923.

(*iv*) the liability under clauses (*i*) and (*iii*) shall be a first charge on the rent or revenue of such village or share;

(*v*) the total amount payable under clauses (*i*) and (*iii*) in respect of the holding in any such village or share shall be recoverable from the holder of such village or share entered in the Record of Rights;

(*vi*) the amount payable under clause (*ii*) by any class of persons shall be recoverable in such manner as the Provincial Government directs from the members of that class as entered in the Record of Rights.

(2) All survey settlements heretofore introduced in alienated villages shall be valid as if they had been introduced in accordance with the provisions of this section."

STATEMENT OF OBJECTS AND REASONS.

Government has always held that it is in the public interest that survey and settlement should be introduced in alienated villages but, as section 216 of the Bombay Land Revenue Code, 1879, stands at present, the consent of the holders to such introduction cannot be dispensed with. In order to encourage the holder or holders of alienated villages to agree to the introduction of survey and settlement, Government has hitherto defrayed the cost of survey and settlement, on the holders on their part agreeing to pay the salaries and perquisites of the village officers for the collection of land revenue and local fund cess and to supply agricultural and vital statistics. Experience has proved that survey settlements are to the advantage both of the holders of alienated villages and of the tenants. It is, therefore, proposed to remove the requirement of the holder's consent before the introduction of survey settlements in alienated villages and also to charge the holders and also if Government so direct other persons interested in the lands in the village with the expenses of these operations but at the same time to respect all obligations undertaken by Government under existing agreements with the holders of alienated villages. As a corollary it will be necessary to impose on the holders by law the obligation to defray the salaries of the village officers and the cost of collecting local fund cess. It is not considered necessary to impose upon the holders the obligation of supplying agricultural and vital statistics as this forms part of the duties of village officers.

Dated 13th September 1947. MORARJI DESAI.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XLV OF 1947.]

(As read for the third time and passed by the Legislative Assembly on the 4th October 1947.)

A Bill to amend the Bombay Land Revenue Code, 1879.

[Mr. Morarji Desai, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

STATEMENT OF OBJECTS AND REASONS.

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